

Appeal from decision of the Oregon State Office, Bureau of Land Management, returning an affidavit of labor performed, map, and fee for a certain mining claim and declaring the claim abandoned.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Generally --
Federal Land Policy and Management Act of 1976: Recordation of
Mining Claims and Abandonment -- Mining Claims: Recordation --
Words and Phrases

Under sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2, the owner of a mining claim located before Oct. 21, 1976, must file a copy of the official record of the notice of location for the claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979. Failure to so file is deemed conclusively to constitute an abandonment of the claim by the owner.

"Copy of the official record of the notice or certificate of location"
means a legible reproduction or duplicate, except microfilm, of the original instrument of recordation of an unpatented mining claim which was or will be filed in the local jurisdiction where the claim is located or other evidence, acceptable to the proper BLM office, of such instrument of recordation. It also includes an exact reproduction, duplicate, or other acceptable evidence, except microfilm, of an amended instrument

which may change or alter the description of the claim.

APPEARANCES: William E. Talbott, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

William E. Talbott 1/ appeals from the decision of the Oregon State Office, Bureau of Land Management (BLM), dated December 19, 1979, returning an affidavit of labor performed, a map, and \$5 fee for the Fools Folly mining claim as unacceptable for purposes of recordation under section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2.

With his statement of reasons, appellant submitted a document entitled, "Bill of Sale for Mineral Rights on Mining Claim," and stated, "The only paper we have been able to find regarding the location of the claim and ownership is the enclosed 'Bill of Sale.'" The bill of sale transferred the Fools Folly mining claim to the present claimants on April 30, 1970, but gives no indication of the original date of location.

[1] Section 314(b) of FLPMA, 43 U.S.C. § 1744(b) (1976), requires the owner of an unpatented lode or placer mining claim located prior to October 21, 1976, to file a copy of the official record of the notice of location for the claim in the BLM office designated by the Secretary of the Interior within the 3-year period following October 21, 1976. Section 314 also provides that failure to timely file such record shall be deemed conclusively to constitute an abandonment of the mining claim by the owner.

The corresponding regulation, 43 CFR 3833.1-2(a), reads as follows:

The owner of an unpatented mining claim, mill site or tunnel site located on or before October 21, 1976, on Federal lands, * * * shall file (file shall mean being received and date stamped by the proper BLM Office) on or before October 22, 1979, in the proper BLM Office, a copy of the official record of the notice or certificate of location of the claim or site filed under state law. If state law does not require the recordation of a notice or certificate of location [of the claim or site, a certificate of location] containing the information in paragraph (c) of this section shall be filed. 2/

1/ Other claimants of record are Mary Ann Talbott, James L. Ingerson, Eloise F. Ingerson, and Jerry D. Ingerson.

2/ The bracketed language was inadvertantly omitted from 43 CFR 3833.1-2(a) (1979) upon printing. The correctly promulgated regulation appeared at 44 F.R. 20430 (April 5, 1979).

"Copy of the official record of the notice of location" is defined by 43 CFR 3833.0-5(i) to include:

[A] legible reproduction or duplicate, except microfilm, of the original instrument of recordation of an unpatented mining claim, mill or tunnel site which was or will be filed in the local jurisdiction where the claim or site is located or other evidence, acceptable to the proper BLM office, of such instrument of recordation. It also includes an exact reproduction, duplicate or other acceptable evidence, except microfilm, of an amended instrument which may change or alter the description of the claim or site.

The purpose of the recordation requirements of FLPMA is to give notice to BLM of the existence of mining claims on Federal lands so that this information may be considered in the management of those lands. The date of location is important for establishing the date from which a claimant's rights to a particular claim arise. The submissions filed with BLM on October 22, 1979, were sufficient to meet the requirements of section 314(a) of FLPMA and 43 CFR 3833.2-1(a) concerning evidence of assessment work but do not satisfy the requirements of recording a notice of location. We would also note that the bill of sale is also unacceptable as it is neither acceptable evidence of a notice of location for the claim recorded under state law nor does it contain sufficient information to prove establishment of the claim otherwise. See Philip Sayer, 42 IBLA 296 (1979). In any event, it was not timely filed within the statutory period.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

James L. Burski
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Anne Poindexter Lewis
Administrative Judge.

